

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOSEPH A. RODRIGUEZ,  
Plaintiff,  
v.  
MILAGROS CLAVANO, et al.,  
Defendants.

2:09-CV-395 JCM (PAL)

## ORDER

Presently before the court is plaintiff Joseph A. Rodriguez's motion requesting that this court reconsider its order dismissing the complaint. (Doc. #33). Defendants have not filed a response.

18 The court dismissed plaintiff's amended complaint on March 19, 2012, pursuant to  
19 defendants' motion to dismiss. On March 22, 2012, the plaintiff filed a motion requesting that the  
20 court not dismiss the complaint. As the complaint was already dismissed, this court, interpreting  
21 plaintiff's papers broadly, construed the motion as a motion to reconsider. The court denied the  
22 motion.

23 Plaintiff now seeks reconsideration again, stating that he did not know how to properly  
24 stylize an opposition to the motion to dismiss, and by the time he learned, the deadline to oppose had  
25 passed.<sup>1</sup> The court is not persuaded that such a circumstance satisfies the standard for

<sup>1</sup> The court notes that plaintiff represents that he sent a letter opposing the motion to dismiss, but that the court rejected the letter. The allegation is not substantiated by the record. Plaintiff sent

1 reconsideration. *See School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993)  
 2 (“Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence,  
 3 (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening  
 4 change in controlling law.”).

5 The complaint was dismissed over *three years* after plaintiff first filed suit. He could have,  
 6 and should have, learned how to properly file papers within this time. The plaintiff’s dilatory tactics  
 7 in this lawsuit have burdened the court’s docket. In over three years of this case’s pendency on the  
 8 court’s docket, very little has been done to faithfully prosecute the action. Under these facts, the  
 9 court does not find that its initial decision to dismiss or its denial of the first motion to reconsider  
 10 “was manifestly unjust.” *See id.*

11 Accordingly,

12 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff’s motion to  
 13 reconsider (doc. #33) be, and the same hereby is, DENIED.

14 DATED April 27, 2012.

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 17 **UNITED STATES DISTRICT JUDGE**  
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25 a single letter to the court, addressed to Magistrate Judge Leen requesting an attorney be appointed  
 26 due to his financial inability to retain counsel. Doc. #25. This letter was sent prior to the motion to  
 27 dismiss being filed. The magistrate judge issued a minute order informing plaintiff that  
 28 communications with the court must be in the form of a motion. Doc. #28. Plaintiff had 11 days  
 after the minute order was issued to file an opposition to the motion to dismiss, but did not do so.